

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2287

IN THE MATTER OF:

Served December 4, 1981

Application of ARROWHEAD BUS & )  
LIMOUSINE EQUIPMENT, INC. DBA ABLE, )  
INC., for Temporary Authority to )  
Conduct Charter Operations -- )  
Washington National Arena )

Case No. AP-81-30

Application of ERNEST KELLER, JR., )  
DBA KELLER BUS SERVICE for )  
Temporary Authority to Conduct )  
Charter Operations -- Washington )  
National Arena )

Case No. AP-81-31

By application filed December 1, 1981, in Case No. AP-81-30, Arrowhead Bus & Limousine Equipment, Inc., doing business as Able, Inc. (Able) seeks temporary authority pursuant to Title II, Article XII, Section 4(d)(3) of the Compact to conduct charter operations transporting passengers between the facilities of Georgetown University, Washington, D. C., on the one hand, and, on the other, the Washington National Arena (Capital Centre), Landover, Md. Service would be performed in school bus vehicles for persons possessing tickets to Georgetown University basketball games to be played at the Capital Centre as described below. Able holds no authority from the Commission.

By application filed December 2, 1981, in Case No. AP-81-31, Ernest Keller, Jr., doing business as Keller Bus Service (Keller), seeks temporary authority identical to that described in Case No. AP-81-30. The records of these two proceedings will be consolidated for consideration because of the similarities of matters presented, and one decision will be issued.

In Case No. AP-81-30, Able and the Capital Centre have entered into a contract for transportation to be performed on 12 occasions between Georgetown University and the Capital Centre for persons holding tickets for Georgetown basketball games to be played at the Capital Centre on specified dates between December 5, 1981, and February 24, 1982. The contract requires the use of school bus

vehicles which will load at the Georgetown campus prior to each game, proceed to the Capital Centre for unloading, and reload at the Capital Centre for the return trip after the game. The charge will be \$100 paid by the Capital Centre for each coach ordered and placed in service per game. The agreement calls for Able to be the sole employer or contractor of all persons providing equipment and specifies that Able may engage the services of other carriers to assist in performing the contract.

Applicant anticipates that at least 40 to 50 buses will be required for each game (and perhaps as many as 60 to 70), with the exact amount depending on ticket sales at the University. Able further asserts that inasmuch as certificated school bus operators are incapable of providing the required volume of equipment, the service will be operated as a joint venture with McMichael School Bus Service, Inc. (McMichael), and Yellow Bus Lines, Inc. (Yellow Bus), both of which hold appropriate authority from this Commission to provide the proposed service. Able lists 15 revenue vehicles and two backup units available for the proposed service.

In Case No. AP-81-31, Keller has entered into an agreement with Able whereby Keller will assist in providing additional service (equipment and drivers), if needed, to supplement the equipment available from Able, McMichael and Yellow Bus. Keller has appended an equipment list to its application showing 37 buses available to participate in the involved transportation. Keller would receive \$100 per vehicle for each round-trip made. Keller holds a certificate of public convenience and necessity from the Commission, but is not authorized to provide the service contemplated herein. The carrier does have an appropriate certificate of insurance on file with the Commission.

Keller asserts that among Able, McMichael and Yellow Bus, the carriers have available a maximum of 55 units of equipment, and, of this amount, some equipment is likely obligated for other charter work and some units are undergoing maintenance procedures. Thus, according to Keller, transportation requirements will exceed the number of available vehicles, and no other carrier is authorized to provide service.

The Commission's staff has independently confirmed Able's assertion that McMichael and Yellow Bus support and do not intend to protest the overall arrangement to provide this service. Under that arrangement, Able, McMichael and Yellow Bus will provide service until their equipment availability is exhausted, at which point Keller has agreed to provide such additional service as is required.

Title II, Article XII, Section 4(d)(3) of the Compact provides that ". . . the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority . . ." to ". . . enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need. . . ."

We find in Case No. AP-81-30 that Able has established that there is an immediate and urgent need for service. The first basketball game is scheduled for December 5, 1981, and projections indicate 40-50 bus loads of passengers require transportation. With regard to the matter of carrier service capability, we find that there is a need for at least 40 to 50 vehicles to provide the service and that McMichael and Yellow Bus are unable, either individually or collectively, to meet the need by providing the number of vehicles required. The record indicates that without sufficient equipment available, hundreds of persons would be left without transportation service.

Accordingly, Able has established the statutory criteria for issuance of temporary authority. The grant of authority will be effective on December 5, 1981. A tariff has already been submitted by the carrier and an appropriate certificate of insurance has been filed.

Inasmuch as Able has on file with the Commission Case No. AP-81-27 seeking a certificate of public convenience and necessity, we specifically note that a grant of temporary authority creates no presumption that permanent authority will be granted.

In Case No. AP-81-31, Keller has similarly established the need for a grant of temporary authority to provide additional equipment and drivers as a supplement to the service being performed by Able in concert with McMichael and Yellow Bus. An immediate and urgent need for the proposed service has been established. With respect to the issue of carrier service capability, Keller asserts the inability of Able and the two certificated carriers to meet the need for service set forth in Able's contract with the Capital Centre. It appears from the record that the need exists for the availability of additional equipment and drivers, after the resources of Able, McMichael and Yellow Bus have been exhausted. Inasmuch as Keller has submitted an appropriate tariff and already has on file a certificate of insurance, the grant of authority will be effective on December 5, 1981. Both Able and Keller will be directed to comply with Commission Regulation No. 68-03 concerning vehicle identification. Finally, both grants of authority will be restricted to the use of school bus equipment in conformance with the evidence of record.

THEREFORE, IT IS ORDERED:

1. That in Case No. AP-81-30, Arrowhead Bus & Limousine Equipment, Inc., doing business as Able, Inc., is hereby granted temporary authority to conduct charter operations pursuant to contract with Washington National Arena transporting passengers between the facilities of Georgetown University, Washington, D. C., on the one hand, and, on the other, the Washington National Arena, Landover, Md., restricted to the performance of such transportation in school bus vehicles only.

2. That the temporary authority granted in Case No. AP-81-30 shall be effective Saturday, December 5, 1981, and shall continue through Wednesday, February 24, 1982, unless otherwise ordered by the Commission.

3. That Arrowhead Bus & Limousine Equipment, Inc., doing business as Able, Inc., is hereby directed to comply with the provisions of Commission Regulation No. 68-03 and file an affidavit evidencing such compliance no later than Wednesday, December 9, 1981.

4. That in Case No. AP-81-31, Ernest Keller, Jr., doing business as Keller Bus Service, is hereby granted temporary authority, to conduct charter operations pursuant to agreement with Arrowhead Bus & Limousine Equipment, Inc., doing business as Able, Inc., transporting passengers between the facilities of Georgetown University, Washington, D. C., on the one hand, and on the other, the Washington National Arena, Landover, Md., restricted to the performance of such transportation in school bus vehicles only.

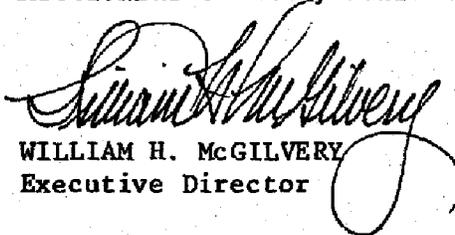
5. That the temporary authority granted in Case No. AP-81-31 shall be effective Saturday, December 5, 1981, and shall continue through Wednesday, February 24, 1982, unless otherwise ordered by the Commission.

6. That Ernest Keller, Jr., doing business as Keller Bus Service, is hereby directed to comply with the provisions of Commission Regulation No. 68-03 and file an affidavit evidencing such compliance no later than December 9, 1981.

7. That in the event either Able, Inc., or Keller Bus Service fails to comply with the directives set forth above within the stated time periods, or such further time as may be authorized by the Commission, the grant of temporary authority made herein to the non-complying carrier will be considered void and the application of

the non-complying applicant will stand denied in its entirety effective upon the expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:



WILLIAM H. MCGILVERY  
Executive Director